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NOV 15 2001

OFFICE OF PETITIONS

In re Application of :
Strong & Davis :
Application No. 09/802,046 : DECISION REFUSING STATUS
Filed: 8 March, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. ARC.009A :

This is in response to the petition filed under 37 CFR 1.47(a) on
24 September, 2001.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of
this decision to reply, correcting the below-noted deficiencies.
Any reply should be entitled "Request for Reconsideration of
Petition Under 37 CFR 1.47(a)," and should only address the
deficiencies noted below, except that the reply may include an
oath or declaration executed by the non-signing inventor.

FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.
Extensions of time may be obtained in accordance with 37 CFR
1.136(a).

The above-identified application was filed on 8 March, 2001,
without an executed oath or declaration. Accordingly, on 21 May,
2001, a Notice to File Missing Parts of Nonprovisional
Application was mailed, requiring an executed oath or declaration
and a surcharge for its late filing. In response, on 24
September, 2001 (certificate of mailing date 20 September, 2001),
petitioners submitted the present petition, accompanied by the
petition fee, surcharge, a petition and payment of the extension

fee for a two (2) month extension of the time for reply to the "Notice", and a declaration naming Paul Strong and Henry A. Davis as joint inventors and signed by joint inventor Davis on behalf of himself and joint inventor Strong.

Petitioners assert that Strong refuses to sign and return the declaration for the present patent application.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of \$130 or \$65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1). In regards to item (1), petitioners have not submitted sufficient evidence to prove that a copy of the application was sent or given to the non-signing inventor. The correspondence accompanying the petition shows only that the declaration was sent to Strong. Petitioners must show proof that a copy of the application (specification including claims, drawings, if any, and the Declaration) were sent or given to the non-signing inventor for review.¹ Petitioners should provide a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Petitioners must also present proof that the non-signing inventor refuses to sign the declaration. If there is a written refusal, a copy of the written refusal should be submitted with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

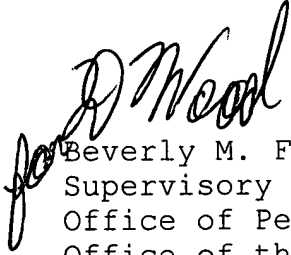
¹MPEP 409.03(d).

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Telephone inquiries related to this decision should be directed
to Petitions Attorney Douglas I. Wood at 703-308-6918.



Beverly M. Flanagan
Supervisory Petitions Examiner
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Office of the Deputy Commissioner
for Patent Examination Policy